IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

OP.No. 10066 of 1996(W)

PETITIONER:

K. BEERAN MOIDEEN,
HEADMASTER,
C.P.P.H.M. HIGH SCHOOL,
OZHUR.

BY ADV. SRI.K.JAJU BABU.

RESPONDENTS:
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1. **DISTRICT EDUCATIONAL OFICER, TIRUR.**

2. **STATE OF KERALA, REPRESENTED BY**
SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM.

BY GOVERNMENT PLEADER SRI. K. BHASKARAN.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 17266/1996 IN O.P. NO. 10066/1996

DISMISSED

13/06/2007. **SD/- T.R.RAMACHANDRAN NAIR, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE APPOINTMENT ORDER ISSUED FIRST RESPONDENT TO THE PETITIONER DT. ON 01/07/95 VIDE NO. K. DIS/B3/5763/95.

EXT.P.2: COPY OF THE ORDER G.O. (MS) 397/95 DTD. 05/08/95.

//TRUE COPY//

prv.

T.R.RAMACHANDRAN NAIR, J.

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O.P.No.10066 of 1996-W.

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Dated this the 13th day of June, 2007.

J U D G M E N T

This writ petition is filed by the petitioner who was working as Headmaster in an Aided School. In view of Sub Rule 3 of Rule 2 of Chapter XXVI, KER the petitioner was not eligible to get the salary and was being paid only a special pay. As per the above provision the Headmaster of an Aided Complete Secondary School/Training School shall be given the departmental Headmaster's scale of pay only if he has put in a minimum of 16 years of continuous service as graduate teacher in school recommended by the department. It is because of the above provision the petitioner was not being paid the salary due to the post of Headmaster. The main prayer sought for in the writ petition is to declare that Rule 2(3) of Chapter XXVI, KER is illegal and unconstitutional.

2. Admittedly, the petitioner was not having 16 years of continuous service as graduate teacher. As far as the right of such a person on promotion for payment of salary is concerned, the same is governed by the statutory rules in question. It cannot be said that the petitioner had a fundamental right to have a particular scale of pay while working in the post of Headmaster. The payment of salary is a condition of service which is

governed by the relevant statutory rules and in this case the same is Rule 2(3) of Chapter XXVI, KER. A reading of the above rule shows that the classification does not suffer from any irrationality. The rules provides for a clear classification based on experience in a particular cadre, 16 years of continuous service is the minimum service required. There is no vice of arbitrariness also. Therefore, the writ petition fails and the same is dismissed.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-